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August 14, 2012

FILED ECF

Honorable Eric N. Vitaliano
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Carlo Profeta; 10 Cr. 0229 (ENV)

Dear Judge Vitaliano:

I represent the releasee, Carlo Profeta, and submit this letter in aid of the sentencing of Mr. Profeta following his admission to Charge 1 of the December 7, 2011 Report on Violation of Supervised Release ("Report").

On February 24, 2010, just 12 days before the expiration of his three-year term of supervised release previously imposed by the Honorable Lewis A. Kaplan, Mr. Profeta was arrested and charged with racketeering acts in United States v. Bernardo; 10 Cr. 0010 (ENV). One week later, on March 3, 2010, the Southern District of New York Probation Department petitioned Judge Kaplan for the issuance of a warrant to be lodged as a detainer against Mr. Profeta and to bring Mr. Profeta before the Court to answer the violation of supervised release. On March 31, 2010, this Court accepted jurisdiction of the violation of supervised release term to consolidate that matter with the new charges lodged against Mr. Profeta in the *Bernardo* case.

On February 1, 2011, Mr. Profeta pleaded guilty to Count 11 of the Superseding Indictment in the *Bernardo* case. On December 6, 2011, this Court principally sentenced Mr. Profeta to a 46 months' imprisonment. It was the expectation that the formal violation charge would have been issued by the Eastern District of New York Probation Department against Mr. Profeta prior to the sentencing on December 6, 2011. It was not until the following day that the formal violation charge was issued.

I urge this Court not to impose any additional term of imprisonment upon Mr. Profeta for two reasons. First, Mr. Profeta has been detained on the supervised release

Honorable Eric N. Vitaliano

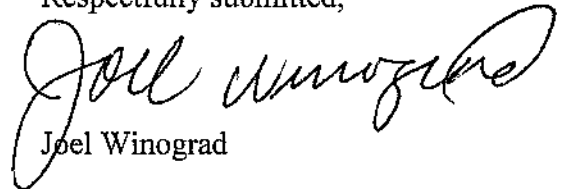
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violation since on or about March 3, 2010, the day when Judge Kaplan ordered the issuance of a warrant for the detention of Mr. Profeta, and at no time was Mr. Profeta bailed on conditions of release. Accordingly, Mr. Profeta has been in custody on the supervised release violation for well in excess of two years. Secondly, had the formal violation been issued by the Eastern District of New York Probation Department prior to the sentencing of Mr. Profeta in the *Bernardo* case, this Court would have sentenced Mr. Profeta on the same day on his guilty plea in *Bernardo* and on his admission to the supervised release violation. Indeed, where the Guidelines range applicable to Mr. Profeta in the *Bernardo* case was 41-51 months, this Court when considering the totality of the circumstances may have imposed a cumulative sentence of 46 months upon Mr. Profeta on both his guilty plea and supervised release violation, instead of that term upon Mr. Profeta on his guilty plea in the *Bernardo* case alone. But without a formal supervised release violation charge at the time of sentencing in the *Bernardo* case, the Court was prevented from exercising its discretion in that regard.

For these reasons, it is respectfully requested that the Court impose no additional term of imprisonment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joel Winograd", written in a cursive style.

Joel Winograd

cc: Senior U.S. Probation Officer Lawrence Goldman

JW/rb

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